

# SB3419



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3419

Introduced 2/10/2010, by Sen. Dan Kotowski

#### SYNOPSIS AS INTRODUCED:

215 ILCS 97/40

Amends the Illinois Health Insurance Portability and Accountability Act. Includes large group markets in the provision concerning guaranteed availability of coverage for employers in the group market. Effective July 1, 2010.

LRB096 19501 RPM 34893 b

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Insurance Portability and  
5 Accountability Act is amended by changing Section 40 as  
6 follows:

7 (215 ILCS 97/40)

8 Sec. 40. Guaranteed availability of coverage for employers  
9 in the group market.

10 (A) Issuance of coverage in the small and large group  
11 markets ~~market~~.

12 (1) In general. Subject to subsections (C) through (F),  
13 each health insurance issuer that offers health insurance  
14 coverage in the small group market or the large group  
15 market or both markets in the ~~a~~ State:

16 (a) must accept every small or large employer (as  
17 defined in Section 5 ~~10~~) in the State that applies for  
18 such coverage; and

19 (b) must accept for enrollment under such coverage  
20 every eligible individual (as defined in paragraph  
21 (2)) who applies for enrollment during the period in  
22 which the individual first becomes eligible to enroll  
23 under the terms of the group health plan and may not

1 place any restriction which is inconsistent with  
2 Section 25 on an eligible individual being a  
3 participant or beneficiary.

4 (2) Eligible individual defined. For purposes of this  
5 Section, the term "eligible individual" means, with  
6 respect to a health insurance issuer that offers health  
7 insurance coverage to a small employer in connection with a  
8 group health plan in the small group market or to a large  
9 employer in connection with a group health plan in the  
10 large group market, such an individual in relation to the  
11 employer as shall be determined:

12 (a) in accordance with the terms of such plan;

13 (b) as provided by the issuer under rules of the  
14 issuer which are uniformly applicable in the ~~a~~ State to  
15 all ~~small~~ employers in such ~~the small group~~ market or  
16 markets; and

17 (c) in accordance with all applicable State laws  
18 governing such issuer and such market or markets.

19 (B) Special rules for network plans.

20 (1) In general. In the case of a health insurance  
21 issuer that offers health insurance coverage in the small  
22 group market or the large group market or both markets  
23 through a network plan, the issuer may:

24 (a) limit the employers that may apply for such  
25 coverage to those with eligible individuals who live,  
26 work, or reside in the service area for such network

1 plan; and

2 (b) within the service area of such plan, deny such  
3 coverage to such employers if the issuer has  
4 demonstrated, if required, to the Department that:

5 (i) it will not have the capacity to deliver  
6 services adequately to enrollees of any additional  
7 groups in such market or markets because of its  
8 obligations to existing group contract holders and  
9 enrollees; and

10 (ii) it is applying this paragraph uniformly  
11 to all employers in such market or markets without  
12 regard to the claims experience of those employers  
13 and their employees (and their dependents) or any  
14 health status-related factor relating to such  
15 employees and dependents.

16 (2) 180-day suspension upon denial of coverage. An  
17 issuer, upon denying health insurance coverage in any  
18 service area in accordance with paragraph (1)(b), may not  
19 offer coverage in such ~~the small group~~ market or markets  
20 within such service area for a period of 180 days after the  
21 date such coverage is denied.

22 (C) Application of financial capacity limits.

23 (1) In general. A health insurance issuer may deny  
24 health insurance coverage in the small group market if the  
25 issuer has demonstrated, if required, to the Department:

26 (a) it does not have the financial capacity

1 necessary to underwrite additional coverage in such  
2 market or markets; and

3 (b) it is applying this paragraph uniformly to all  
4 employers in such ~~the small group~~ market or markets in  
5 the State and without regard to the claims experience  
6 of those employers and their employees (and their  
7 dependents) or any health status-related factor  
8 relating to such employees and dependents.

9 (2) 180-day suspension upon denial of coverage. A  
10 health insurance issuer upon denying health insurance  
11 coverage in connection with group health plans in  
12 accordance with paragraph (1) may not offer coverage in  
13 connection with group health plans in such ~~the small group~~  
14 market or markets for a period of 180 days after the date  
15 such coverage is denied or until the issuer has  
16 demonstrated to the Department that the issuer has  
17 sufficient financial capacity to underwrite additional  
18 coverage in such market or markets, whichever is later. The  
19 Department may provide for the application of this  
20 subsection on a service-area-specific basis.

21 (D) Exception to requirement for failure to meet certain  
22 minimum participation or contribution rules.

23 (1) In general. Subsection (A) shall not be construed  
24 to preclude a health insurance issuer from establishing  
25 employer contribution rules or group participation rules  
26 for the offering of health insurance coverage in connection

1 with a group health plan in the small or large group  
2 market.

3 (2) Rules defined. For purposes of paragraph (1):

4 (a) the term "employer contribution rule" means a  
5 requirement relating to the minimum level or amount of  
6 employer contribution toward the premium for  
7 enrollment of participants and beneficiaries; and

8 (b) the term "group participation rule" means a  
9 requirement relating to the minimum number of  
10 participants or beneficiaries that must be enrolled in  
11 relation to a specified percentage or number of  
12 eligible individuals or employees of an employer.

13 (E) Exception for coverage offered only to bona fide  
14 association members. Subsection (A) shall not apply to health  
15 insurance coverage offered by a health insurance issuer if such  
16 coverage is made available in the small or large group market  
17 only through one or more bona fide associations (as defined in  
18 Section 5 10).

19 (Source: P.A. 90-30, eff. 7-1-97.)

20 Section 99. Effective date. This Act takes effect July 1,  
21 2010.